

**STATE OF MICHIGAN  
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

**Before the Director of the Department of Insurance and Financial Services**

In the matter of:

**Spire America Holdings, Inc.**  
**fka Top O Michigan Ins Agency Inc**  
System ID No. 0009122

**Enforcement Case No. 20-16042**

**Brian David Bartosh**  
System ID No. 0051688

Respondents.

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**Issued and entered  
on October 28, 2021  
by Randall S. Gregg  
Senior Deputy Director**

**ORDER ACCEPTING STIPULATION**

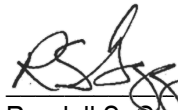
Based upon the Stipulation to Entry of Order and the files and records of the Department of Insurance and Financial Services (DIFS) in this matter, the Chief Deputy Director finds and concludes that:

1. The Senior Deputy Director has jurisdiction and authority to adopt and issue this Order Accepting Stipulation in this proceeding pursuant to the Michigan Administrative Procedures Act of 1969 (APA), as amended, MCL 24.201 *et seq.*, and the Michigan Insurance Code of 1956 (Code), MCL 500.100 *et seq.*
2. All required notices have been issued in this case, and the notices and service thereof were appropriate and lawful in all respects.
3. Acceptance of the Stipulation to Entry of Order is reasonable and in the public interest.
4. All applicable provisions of the APA have been met.
5. Prior to the transition from billing customers by the agency to billing customers by the insurer, Respondent violated Section 1207(2) and Section 1239(1)(b) and (1)(h) of the Code, MCL 500.1207(2) and 500.1239(1)(b) and (1)(h). Respondent Spire America Holdings, Inc. (Respondent Spire) failed to use reasonable accounting methods by failing to reconcile its trust and operating accounts. Respondent Spire failed to collect the payment of premiums on behalf of its customers. As a result, Respondent Spire's trust account had insufficient funds to cover payments owed to insurers for other customers and Respondent Spire's operating account had to be utilized to cover for the deficiency. Respondent Brian Bartosh (Respondent Bartosh) failed to ensure that Respondent Spire

conducted its business in accordance with all Michigan insurance laws, as required by his status as the agency's designated responsible licensed producer (DRLP).

Now therefore, based upon the Stipulation to Entry of Order and the facts surrounding this case, **IT IS ORDERED THAT:**

6. Respondents shall **cease and desist** from violating the Code as identified in paragraph 5.
7. Respondents shall pay civil and administrative fines in the amount of \$1,000.00, due by the date identified on the DIFS invoice. The due date shall be no earlier than 30 days after the date this Order is entered.
8. Respondent Bartosh shall complete a three credit hour ethics course within 6 months of the date of this Order. The course shall be on the topic of errors and omissions or another subject related to a producer's fiduciary duty to account for client funds. The course shall not count towards any other course requirement Respondent is obligated to fulfill as part of his licensing renewal.
9. Respondents shall abide with all promises and agreements in the accompanying Stipulation to Entry of Order. A failure to comply with a term in the Stipulation shall be deemed a violation of this Order.
10. The Senior Deputy Director retains jurisdiction over the matters contained herein and has the authority to issue such further order(s) as shall be deemed just, necessary, and appropriate in accordance with the Code. Failure to abide by the terms and provisions of the Stipulation to Entry of Order and this Order may result in the commencement of additional proceedings.



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Randall S. Gregg  
Senior Deputy Director

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**STIPULATION TO ENTRY OF ORDER**

Spire America Holdings, Inc. fka Top O Michigan Ins Agency Inc (Respondent Spire) and Respondent Brian David Bartosh (Respondent Bartosh) and the Department of Insurance and Financial Services (DIFS) stipulate to the following:

1. On or about May 14, 2020, the Department of Insurance and Financial Services (DIFS) served Respondents with a Notice of Opportunity to Show Compliance (NOSC) alleging that Respondents violated provisions of the Insurance Code of 1956 (Code), MCL 500.100 *et seq.*
2. Specifically, the NOSC contained allegations that Respondents violated Section 1207(2) and Section 1239(1)(b) and (1)(h) of the Code, MCL 500.1207(2) and 500.1239(1)(b) and (1)(h).
3. The NOSC alleged that Respondent Spire failed to use reasonable accounting methods by failing to reconcile the lack of payments from customers with premium payments made by Respondent to insurers on behalf of those customers. Because of Respondents' alleged failure to collect premiums owed by customers, Respondent Spire's trust account had insufficient funds to cover payments owed to insurers for other customers and Respondent Spire's operating account had to be utilized to cover for the deficiency. The NOSC further alleged that Respondent Bartosh failed to ensure that Respondent Spire conducted its business in accordance with all Michigan insurance laws, as required by his status as the agency's designated responsible licensed producer (DRLP).
4. In response to the NOSC, Respondents participated in an informal compliance conference with DIFS. During the conference, Respondent maintained that it properly accounted for all payments that it had received from its customers for the payment of premiums. No monies were wrongfully converted to the detriment of a customer or insurer. Respondent Spire further maintained that it had adequate policies in place for its transition to complete bill pay through direct billing and payment to the insurer. However, Respondent maintained that these policies were not properly implemented by staff, which went unnoticed by Respondents, resulting in a lack of billing and collection of premiums in several


instances. Respondent has a large volume of customers, with more than 8,700 policies and 4,700 customers serviced by Respondent Spire. It is agreed by the parties that the scope of conduct for this NOSC involved only 3 accounts. Respondents presented evidence to establish that prior to DIFS involvement in this matter, Respondents had already discovered the issue and taken corrective actions. DIFS acknowledges that there is no evidence that Respondent was willful or intentional in its failure to collect premiums for the policies in question.

5. Respondents admit to the allegations stated above but deny any other wrongdoing and deny that they knowingly paid for the insurance premiums of any insured with the intent of conferring an unlawful inducement or benefit.
6. All parties have complied with the procedural requirements of the APA and the Code.
7. Respondents agree that they will cease and desist from operating in a manner that violates Section 1207(2) and Section 1239(1)(b) and (1)(h) of the Code, MCL 500.1207(2) and 500.1239(1)(b) and (1)(h).
8. Respondents agree that they will pay to the State of Michigan, through DIFS, administrative and civil fines in the amount of \$1,000.00. Respondents further agree to pay the fine by the due date as indicated on the DIFS invoice. The due date shall be no earlier than 30 days after the date the accompanying Order Accepting Stipulation is entered.
9. Respondent Bartosh agrees to complete a three credit hour ethics course within 6 months of the date of the entry of the Order Accepting Stipulation. Respondent Bartosh agrees to identify a course on the topic of errors and omissions or another subject regarding a producer's fiduciary duty to account for client funds. This course shall not count towards any other course requirement Respondent is obligated to fulfill as part of his licensing renewal.
10. Respondents have had an opportunity to review this Stipulation to Entry of Order and the proposed Order Accepting Stipulation and have the same reviewed by legal counsel.
11. Respondents understand and agree that the Senior Deputy Director may, in his sole discretion, decide to accept or reject this Stipulation to Entry of Order. If the Senior Deputy Director accepts the Stipulation to Entry of Order, Respondents waive the right to a hearing in this matter and consent to the entry of the Order Accepting Stipulation and Requiring Compliance and Payment of Fines. If the Senior Deputy Director does not accept the Stipulation to Entry of Order, Respondents waive any objection to the Director holding a formal administrative hearing and making a decision after such hearing.
12. It is further stipulated that failure to comply with the Order of the Director accepting this settlement by failing to pay the administrative and civil fines as set forth above shall result in the commencement of an action to suspend all licenses held under the Code held by Respondents.
13. It is further stipulated that the amount of fines and/or fees has been negotiated in return for the avoidance of further proceedings and certain promises and conditions, one of which is the timely payment of said fines and/or fees. Should Respondents fail to pay the fines and/or fees in accordance with the terms of this Stipulation and the Director's Order, the parties agree that an action will commence to determine if the Respondent has, in fact, failed to pay, and, if so, Respondent agrees

that the fines and/or fees will immediately increase to the maximum amount allowed under the Code, shall be immediately due in full, and Respondent's license(s) shall be revoked.

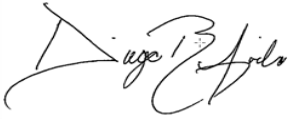
  
Spire America Holdings, Inc.  
fka Top O Michigan Ins Agency Inc

10/26/2021  
Date

  
Brian Bartosh

10/26/2021  
Date

DIFS Staff approve this Stipulation and recommend that the Senior Deputy Director accept it and issue an Order Accepting Stipulation.

  
Diego R. Avila (P72657)  
DIFS Staff Attorney

10/27/2021  
Date